

**THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

AMERICAN FEDERATION OF
GOVERNMENT EMPLOYEES, AFL-CIO,
et al.

Plaintiffs,

v.

Civil Action No. 1:25-cv- 10276

CHARLES EZELL, ACTING DIRECTOR,
OFFICE OF PERSONNEL
MANAGEMENT, et al.

Defendants.

NOTICE OF SUPPLEMENTAL AUTHORITY

Plaintiffs write to inform the Court of recent factual developments that provide additional support for Plaintiffs' contention that Court has jurisdiction to hear Plaintiffs' claims. Following yesterday's February 10 hearing before this Court, President Trump removed Federal Labor Relations Authority (FLRA) Chair Susan Tsui Grundmann and Merit Systems Protection Board (MSPB) member Cathy A. Harris from their offices prior to the end of their respective statutory terms. *See* Eric Katz, *Trump fires one-third of federal employee appeals board*, GovExec (Feb. 11, 2025, 1:28 PM), <https://www.govexec.com/management/2025/02/trump-fires-one-third-federal-employee-appeals-board/402912/>; @LaurenKGurley, X (Feb. 11, 2025, 2:35 PM) <https://x.com/LaurenKGurley/status/1889397976340337114>. Both FLRA and MSPB board positions are subject only to removal for cause, and the functioning of both the FLRA and MSPB

can be significantly hampered by the loss of members. *See* 5 U.S.C. § 1202 (d); 5 U.S.C. § 7104 (b); 5 CFR § 1200.3.

As this Court is aware, Defendants contend – and Plaintiffs dispute – that Plaintiffs’ complaint should be channeled to the MSPB or FLRA, and that those forums would provide “meaningful judicial review” of claims like Plaintiffs’ here. ECF No. 45 at 16. Defendants are wrong for the reasons set forth in Plaintiffs’ briefing and as explained during yesterday’s hearing. *See* ECF 12 at 13-16; ECF 50 at 10-15. But these terminations have now fundamentally weakened these entities and undermined their bipartisan composition, further impairing any purported opportunity for “meaningful judicial review” of Defendants’ Fork Directive absent this Court’s exercise of jurisdiction. *Thunder Basin Coal Co. v. Reich*, 510 U.S. 200, 213 (1994) (quoting *McNary v. Haitian Refugee Center, Inc.*, 498 U.S. 479, 496 (1991)).

DATED this 11th day of February, 2025.

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Certificate of Service

I hereby certify that this document filed through the CM/ECF system will be sent electronically to the registered participants as identified on the NEF (NEF) and paper copies will be sent to those indicated as non-registered participants.

Dated: February 11, 2025

/s/ Daniel McGrath

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